



**BOARD OF DIRECTORS
DECEMBER 19, 2003**

**AGENDA ITEM NO. 03-12- 6
ACTION REQUESTED - APPROVE**

FINAL ARJIS/SANDAG CONSOLIDATION PLAN

Recommendation

It is the Executive Committee's recommendation that the Board of Directors approve the Final ARJIS/SANDAG Consolidation Plan, including the necessary policy and legal actions to consolidate ARJIS within SANDAG, contingent upon supporting actions by the JPA jurisdictions, and including formation of a policy advisory committee on Public Safety to cover both ARJIS and criminal justice functions subject to JPA approval by member jurisdictions.

Introduction

Since April 2003, the consolidation of the Automated Regional Justice Information System (ARJIS) into SANDAG has been actively pursued by the ARJIS/SANDAG Consolidation Committee, a working group composed of members from both the ARJIS Board and Chief's/Sheriff Management Committee. The Attachment contains the Final Consolidation Plan, which has been approved by the Consolidation Committee and the ARJIS Board of Directors. The Board discussed this plan at its November 21, 2003 meeting and directed staff to docket for approval the new ARJIS JPA on the agenda of each city council and County Board of Supervisors, and work with the law enforcement agencies who will appoint representatives to the Public Safety Policy Advisory Committee. Subsequent to the last Board meeting, the Chief's/Sheriff Management Committee approved the final consolidation plan.

Key highlights of the plan are: (1) the creation of a SANDAG Public Safety Policy Advisory Committee (PSPAC), (2) the transfer of administrative and financial functions to SANDAG to assist with ARJIS day-to-day operations, (3) modifications to the ARJIS JPA and SANDAG Board Policy No. 002, and (4) the creation of a new SANDAG Board Policy to accomplish consolidation.

Significant modifications to the ARJIS JPA include the PSPAC which will replace the current ARJIS Board and Executive Committee. ARJIS consolidation also requires changes to SANDAG Board Policy No. 002 to allow voting rights for non-elected officials. The modified ARJIS JPA and proposed new SANDAG Board Policy incorporate all the required information from the current ARJIS Bylaws; therefore, under consolidation separate ARJIS Bylaws are no longer required.

Benefits of Consolidation

The ARJIS consolidation with SANDAG is viewed as very beneficial for SANDAG, ARJIS, the community, and regional public safety activities. Significant benefits include:

- **Seamless Regional Public Safety Policy** – The addition of a Public Safety Policy Advisory Committee would provide a uniform regional approach to public safety functions, and operate similar to the four other SANDAG policy committees. Plus, the inclusion of a public safety component with voting powers will combine the practical, users' side of the information systems and research with policy decision-making, resulting in improved delivery of information to enhance both officer and public safety.

- **Broadened Regional Public Safety Role** – ARJIS and SANDAG are recognized as leaders in their respective roles as regional entities. The synergy with the SANDAG Criminal Justice Research Division will bring an enhanced and centralized view of public safety to the region, and awareness and promotion of a national model across a broad spectrum of public safety functions.
- **Enhanced Legislative Outreach and Funding Opportunities** – SANDAG's state and federal legislative services and outreach efforts would be expanded to seek support and funding opportunities for homeland security and public safety state and federal grants.
- **Consistent ARJIS Identity** – No change would be made to the ARJIS name, so the consolidation would be transparent to external parties.
- **Protected ARJIS Revenues** – The existing and any future ARJIS revenues will be "fire walled," similar to what SANDAG does with its many specialized grants.
- **Enhanced Administrative Benefits** – There is a similar relationship between the ARJIS and SANDAG Board composition, so duplication can be minimized, time saved, and board administration improved. The resources of SANDAG staff and professionals will be able to assist ARJIS in the day-to-day operations. ARJIS is already located in SANDAG offices, making the consolidation easy to accomplish.
- **Cooperation with Federal Partners** – The consolidation was executed with the cooperation of our federal public safety partners to insure their ability to participate and share information.

- **Regional Technology Hub** – The consolidation will enhance ARJIS as the convening agency for public safety information technology that will ensure officers are provided with state-of-the-art information to enhance both officer and public safety.

Next Steps

The next steps to consolidation are:

1. Adoption and Execution of the Modified ARJIS JPA by ARJIS Member Agencies
 - January – March 2004
2. Complete Consolidation Implementation
 - July 2004



GARY L. GALLEGOS
Executive Director

Attachment

Key Staff Contact: Pam Scanlon
(619) 533-4204; psc@arjis.org



ARJIS

Automated Regional Justice
Information Systems

ARJIS CONSOLIDATION WITH SANDAG

12/19/03

TABLE OF CONTENTS

1. **EXECUTIVE SUMMARY/ARJIS VISION - PAGE 2**
2. **PROPOSED ORGANIZATION – PAGE 4**
 - A. **POLICY COMMITTEE STRUCTURE – PAGE 5**
 - B. **ADMINISTRATIVE STRUCTURE – PAGE 6**
3. **LEGAL AND POLICY ACTIONS – PAGE 7**
 - A. **MODIFIED JPA – PAGE 8**
 - B. **MODIFIED POLICIES FOR SANDAG POLICY ADVISORY COMMITTEES – PAGE 17**
 - C. **NEW PUBLIC SAFETY POLICY ADVISORY COMMITTEE POLICY – PAGE 21**
4. **IMPLEMENTATION ACTIONS – PAGE 23**
 - A. **SCOPE OF WORK – PAGE 24**
 - B. **POLICY TASKS – PAGE 25**
 - C. **TRANSITION/IMPLEMENTATION TASKS – PAGE 26**

EXECUTIVE SUMMARY

Over the past several years, the Automated Regional Justice Information System (ARJIS) has grown from 10 member agencies to 50 justice agencies representing local, state and federal government within San Diego and Imperial Counties. Strong governance structure and a track record of successful implementations have made ARJIS a national model for justice sharing initiatives.

A consolidation with SANDAG would enhance the visibility of ARJIS at the federal and state level by providing advocacy services and enhancing funding opportunities. This merger would create a policy advisory committee for criminal justice policy, research, and information sharing and tracking. This committee would strengthen the coordination and relationships between the elected officials and key public safety agencies and provide a prominent regional forum for public safety matters. Additionally, the consolidation will assist with managing the growth of ARJIS and providing access to a wider range of resources. The consolidation also would provide potential for increased collaboration and activities among SANDAG's Criminal Justice Research Division, ARJIS, and other SANDAG divisions.

Since April 25, 2003, the consolidation has been actively pursued by the ARJIS/SANDAG Consolidation Committee, a working group composed of members from the ARJIS Board of Directors and Chief's/Sheriff Management Committee. The Consolidation Committee, ARJIS Board of Directors, and ARJIS Management Committee have met monthly to review, discuss, and make recommendations for the consolidation. These committees view the consolidation as very beneficial for SANDAG, ARJIS, the community, and regional public safety activities. The ARJIS Vision 2008 on page 3 illustrates the commitment ARJIS had made towards regional public safety issues.

Documentation in this report indicates substantial progress has been made on the consolidation effort. Policy and legal implementation issues related to the consolidation have been addressed. Legal Counsel has reviewed and made recommended modifications to the ARJIS JPA, Bylaws, and SANDAG Policy Committee procedures. Significant modifications to the ARJIS JPA include the creation of the Public Safety Policy Advisory Committee and the transfer of administrative and financial functions to SANDAG. The adoption of SANDAG policies previously addressed by the ARJIS Bylaws, result in the ARJIS Bylaws no longer being necessary. Building security is being addressed in the SANDAG consolidation office space plan, and IT staff is ensuring data security and integrity. Finance and Administration staff are addressing MOUs, finances, and staffing. The timeline for completing the consolidation is July 2004.



ARJIS

Automated Regional Justice
Information System

VISION 2008

We are internationally recognized for leadership, collaboration, information sharing, and regional acquisition of effective information technology.

We use community partnerships and regional information technology to address and anticipate public safety issues and to improve quality of life.

VISION ELEMENTS

SAFETY:

- The San Diego region provides its officers with state-of-the-art information technology that enhances both officer and public safety.
- We use information technology in coordination with community partners to proactively address community concerns.

EFFECTIVENESS:

- The San Diego region provides the training and tools necessary to ensure the highest quality public safety services.
- Public safety personnel have seamless, cross-jurisdictional access to essential data in a timely manner.
- We are committed to a collaborative which includes public/private partnerships and federal, state, county, and municipal public safety agencies.
- We extend that collaboration to other counties, states, and the nation.

REGIONAL:

- ARJIS is the convening agency for regional information technology.
- Leaders of public safety agencies are accountable for regional cooperation and collaboration in the acquisition, maintenance, and sharing of technology and information.
- We continuously scan the environment to create opportunities, develop new strategies, and identify new partners.

PUBLIC AND COMMUNITY RELATIONS:

- The community is a partner in the decision-making process and has confidence in their public safety agencies.
- The community feels well-informed about public safety issues and has easy access to timely, accurate, and appropriate information.

The San Diego region is internationally recognized as the model for technological innovation, cooperation, and the effective use of resources.

2. PROPOSED ORGANIZATION

PUBLIC SAFETY POLICY ADVISORY COMMITTEE

The Public Safety Policy Advisory Committee (PSPAC) would replace the current ARJIS Board of Directors and Executive Committee and have direct support and input from the Chief's Management Committee (see chart on page 5). The Public Safety Policy Advisory Committee (PSPAC) would become a fifth SANDAG policy committee that reports directly to the SANDAG Board of Directors.

1) PSPAC Membership (15 Total: 11 Voting, 4 Non-Voting)

- 6 SANDAG Board Members – (Voting)
 - o 4 sub regions
 - o City of San Diego
 - o County of San Diego
- 5 Public Safety Members – (Voting)
 - o 1 County Sheriff (representing 7 cities)
 - o 1 State Public Safety Agency Member
 - o 2 Members of the County Chiefs/Sheriff Association
 - o 1 Regional Homeland Security Committee Member
- 4 Public Safety Advisory Members - (Non-Voting)
 - o 2 Federal Public Safety Agency (e.g. US Attorney, FBI)
 - o 1 County (DA/Probation)
 - o 1 Courts

2) Meeting Frequency

Monthly meetings are recommended. The day and time of the meetings need to be finalized. The Committee will determine the mission of the PSPAC.

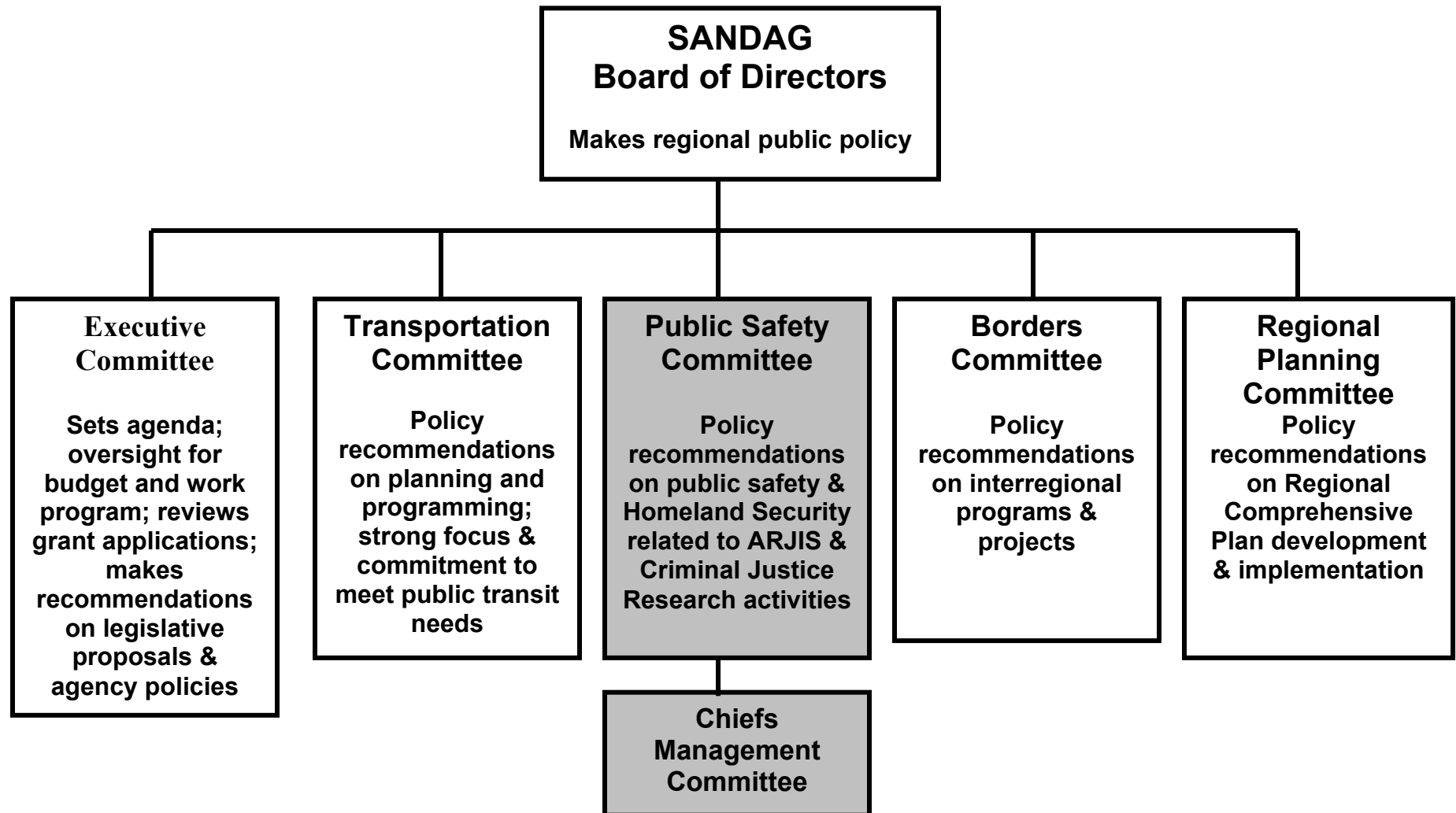
3) Appointing Advisory Committee Members

Elected officials to the PSPAC would be appointed based on the current SANDAG policy for Policy Advisory Committee appointment and rotations. There would be a primary and alternate designated for each member of the PSPAC. Consistent with Board policy, the SANDAG Board Chair would appoint the Chair and Vice Chair of the Committee, who would be SANDAG Board members. Modifications to SANDAG Board policy are required to allow non-SANDAG Board Members to vote on the PSPAC as noted on page 18.

The following organizations would appoint the remaining members on an annual basis:

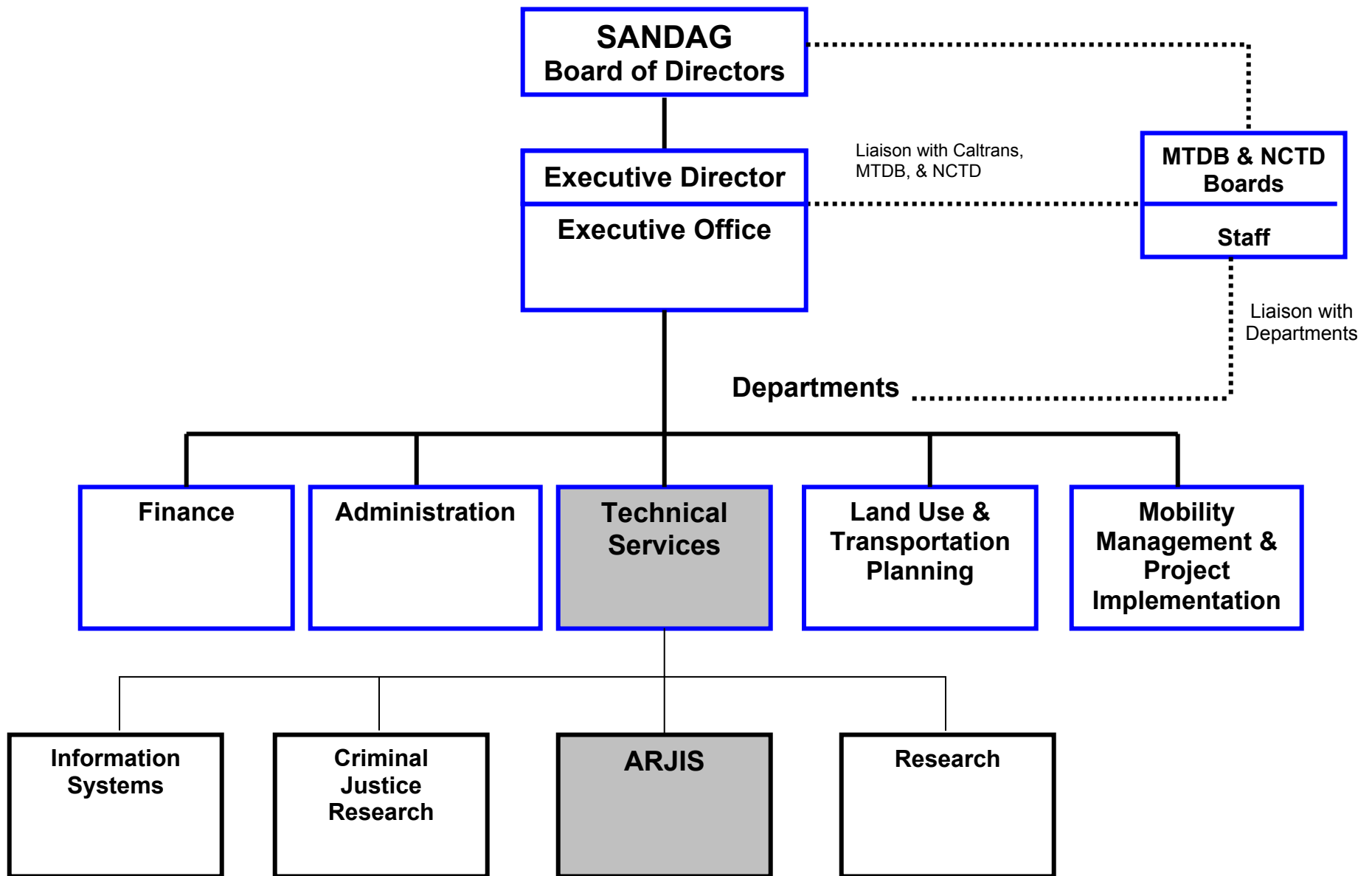
- a) County Chiefs/Sheriff Association – 2 voting members
- b) Regional Homeland Security Committee – 1 voting member
- c) State Public Safety Agency Association – 1 voting member
- d) County Criminal Justice Association – 1 advisory member
- e) Federal Agency Association – 2 advisory members
- f) Courts – 1 advisory member

Board and Policy Advisory Committee Organization with ARJIS Consolidation



12/19/03

SANDAG Management Organization with ARJIS



3. LEGAL AND POLICY ACTIONS

To accomplish the Consolidation significant modifications have been made to the following three existing documents, and the creation of a fourth document:

1. ARJIS JPA

Significant modifications to the ARJIS JPA include:

- 1) Designation of SANDAG's Public Safety Policy Advisory Committee as the governing board of the ARJIS.
- 2) Transfer of administrative and financial functions and responsibilities to SANDAG.
- 3) Adoption of policies previously covered by the ARJIS Bylaws that are proposed to be dissolved.

2. ARJIS Bylaws

Recommend dissolution since policies and procedures are now covered in the amended ARJIS JPA and SANDAG policy documents.

3. SANDAG Board Policy #04-01-002

Addition of the Public Safety Policy Advisory Committee.

4. Public Safety Policy Advisory Committee (PSPAC)

New policies pertaining to the Public Safety Policy Advisory Committee.

JOINT POWERS AGREEMENT – AS AMENDED JANUARY 2004

AUTOMATED REGIONAL JUSTICE INFORMATION SYSTEM JOINT POWERS AGENCY

THIS AGREEMENT is made among those Public Agencies named below that execute this Agreement.

R E C I T A L S

WHEREAS, Public Agencies realize that there is a need for continued operation, maintenance, enhancement and implementation of the Automated Regional Justice Information System (ARJIS) in order to provide improved public safety capabilities to the San Diego region by an effective and efficient use of electronic data processing technology capabilities; and

WHEREAS, Public Agencies believe that the joint exercise of their powers as a Joint Powers Agency (JPA) will provide a decision-making body capable of continuing the operation, maintenance and implementation of the Automated Regional Justice Information System; and

WHEREAS, Public Agencies believe that the San Diego Association of Governments (SANDAG) should serve as the administrator of the ARJIS JPA in order to efficiently incorporate the work done by ARJIS with the work done by SANDAG in the San Diego region,

WHEREAS, this Joint Powers Agreement of December 1, 1980, was amended on July 1, 1990, and January 23, 1998, and the Public Agencies wish to amend it again to implement a consolidation of effort with SANDAG.

NOW THEREFORE, in consideration of recitals and the mutual obligations of the parties as herein expressed, Public Agencies agree as follows:

1. Definitions

The following terms shall have the meanings ascribed to them within this section unless the content of their use dictates otherwise:

- a) “Administrative Member” shall mean SANDAG. As the “Administrative Member” SANDAG shall have the same rights as any of the Public Agencies, shall provide in-kind contributions rather than membership financial support, and shall have the additional responsibilities set forth in this Agreement. SANDAG shall not have a separate vote, but shall be represented by all of the Public Agency representatives.
- b) “Advisory Members” shall mean those members who serve on the ARJIS governing board in an advisory capacity, without voting rights. Advisory Members may contract with SANDAG for the services provided to the Public Agencies.
- c) “Associate Members” shall mean those agencies other than Member Agencies who conduct public safety activities or general purpose local governments outside San Diego County, who are at any given time asked to serve on the ARJIS governing board as

voting members. Associate Members may contract with SANDAG for the services provided to the Public Agencies.

- d) "Fiscal Year" shall mean that year beginning July 1, and ending June 30.
- e) "Member Agencies" shall collectively refer to all of the voting members on the ARJIS governing board, whether they be the Administrative Member, Associate Members, and/or Public Agencies.
- f) "Public Agencies" shall mean those units of government who are at any time a party to the Agreement, including, but not limited to, the Administrative Member, SANDAG.

2. Status

There is hereby created a JPA to be known and denominated as the ARJIS which shall be a public entity separate and apart from any Member Agency or Associate Member with the exception of the Administrative Member. ARJIS shall be governed by the terms of this Joint Powers Agreement, by any policies passed and adopted by the ARJIS governing board, and by the statutes, rules, regulations, policies or procedures that govern SANDAG. The ARJIS governing board shall serve and be known as SANDAG's Public Safety Policy Advisory Committee ("PSPAC").

3. Purpose

The specific and primary purpose for which the ARJIS is created is to assist the Public Agencies by providing the Public Agencies and those who contract with ARJIS, state-of-the-art criminal justice information technology that enhances both officer and public safety. ARJIS is the convening agency for regional justice technology, and provides its members with seamless, cross-jurisdictional access to essential, accurate real-time data via a secure criminal justice enterprise network.

4. Liabilities & Powers

- a. The debts, liabilities and obligations of ARJIS shall not constitute any debt, liability or obligation of any of the Public Agencies that are parties to this Agreement except SANDAG. All ARJIS debts, liabilities, and obligations shall be paid from the separate assets and accounts of the ARJIS, which shall be maintained by the Administrative Member.
- b. The ARJIS shall not have power to contract or to sue or be sued in its own name. All claims for money or damages against the ARJIS shall be made against SANDAG and shall be governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable to SANDAG.
- c. The ARJIS shall not hire a staff, but shall use the staff of SANDAG and shall compensate SANDAG for the use of those staff services. The ARJIS may also utilize staff from other public agencies under contractual agreements.

d. As of the effective date of this Agreement, the ARJIS may not make new contracts or enter into stipulations of any nature whatsoever, including, but not limited to, contracts and stipulations to indemnify and hold harmless, or to employ labor. All such powers shall be held by SANDAG. SANDAG shall carry out these powers and do all other acts necessary and convenient for the full exercise of the ARJIS powers. Effective July 1, 2004, all contracts, stipulations, or agreements previously entered into by the ARJIS shall be transferred to SANDAG.

5. Financial Matters

a. Auditor/Comptroller & Treasurer. SANDAG shall be the depository of funds of ARJIS and the SANDAG Director of Finance shall be the ex-officio Treasurer of ARJIS. The Treasurer of the ARJIS shall file an official bond in the amount of \$100,000. The Auditor/Comptroller of SANDAG shall be the ex-officio Auditor/Comptroller of ARJIS and shall draw warrants or check-warrants against the funds of ARJIS in the Treasury when the demands are approved by the PSPAC, or such other persons as may be specifically designated for that purpose in ARJIS policies. Said Auditor/Comptroller and Treasurer shall comply with all duties imposed under Article 1, Chapter 5, Division 7, Title I, of the California Government Code commencing with Section 6500. SANDAG shall determine reasonable charges to be made against ARJIS for the services of the Treasurer and Auditor/Comptroller. At the end of each fiscal year there shall be an audit conducted by an independent, accredited certified public account.

b. Accounts & Reports. The Auditor/Comptroller of ARJIS shall establish and maintain such funds and accounts as may be required by good accounting practice or bylaws passed and adopted by this Agency. The books and records of ARJIS in the hands of the Auditor/Comptroller shall be open to inspection at all reasonable times by representatives of the Public Agencies. The Auditor/Comptroller of ARJIS, within 120 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Member Agencies and Advisory Members. Said financial report shall be accompanied by a financial/compliance opinion by an independent, accredited certified public accountant. The independent, accredited certified public accountant shall be the accounting firm selected by SANDAG.

c. Funds. The Treasurer of ARJIS shall receive, have the custody of and disburse ARJIS funds upon the warrant or check-warrant of the Auditor/Comptroller (i) pursuant to the accounting procedures developed under this Agreement, and (ii) in accordance with normal SANDAG procedures, shall make the disbursements required by this Agreement or to carry out any of the provisions or purposes of this Agreement. ARJIS funds and accounts shall be segregated from SANDAG's general funds and accounts. The Treasurer of ARJIS may invest ARJIS funds in accordance with general law. All interest collected on ARJIS funds shall be accounted for and posted to the account of such funds.

d. Budget. The PSPAC shall recommend approval of a preliminary budget to the SANDAG Board no later than April 1 of each year. The PSPAC shall recommend approval of a final budget no later than June 1 of each year and have it approved by the SANDAG Board of Directors by July 1 of each year. After adoption by the SANDAG Board, a copy of the preliminary budget shall be filed with each Public Agency.

e. Public Agency Financial Support. With the exception of SANDAG, responsibility for supplying funds for that portion of the budget for ARJIS which is to be supplied by the Member Agencies for operation, maintenance, enhancement and implementation of the system as adopted by the PSPAC and the SANDAG Board of Directors, shall be divided among the Public Agencies, including within its budget as funds to be supplied to the ARJIS that sum of money determined by taking the ratio its population bears to the total population of the region and multiplying it by that portion of the approved budget to be supplied by the Public Agencies. SANDAG shall supply the PSPAC with the official January 1 population figures from the California State Department of Finance Population Research Unit on an annual basis for purposes of this calculation. Payment of membership funds shall be made by each Public Agency by July 15 of each year. If payment by a Public Agency has not been made by September 1 of each year, that Public Agency shall cease to be a participating member of the ARJIS, and its representative shall no longer participate or vote as a member of the PSPAC. A delinquent Public Agency will be reinstated to participating membership and its representative allowed to participate on the PSPAC when full payment has been made, including interest computed from July 15 at the average interest earning rate as determined by the Treasurer.

f. Associate and Advisory Members Financial Support. All Associate and Advisory Members who use the system shall be individually charged and pay to the ARJIS a reasonable share of the total cost of operation, maintenance, enhancement and implementation of the system as determined by the PSPAC. Associate and Advisory Members who access the computer shall be charged for computer time, network time, and application development at a rate agreed to by the Board of Directors. Associate and Advisory Members shall also make an annual payment of a determined sum in accordance with the provisions of the contract between SANDAG and the Associate or Advisory Member. If payment by an Associate or Advisory Member has not been made by September 1 of each year, that member shall cease to be a participating member of the ARJIS, and its representative shall no longer participate or vote as a member of the PSPAC. A delinquent member will be reinstated to participating membership and its representative allowed to participate on the PSPAC when full payment has been made, including interest computed from July 15 at the average interest earning rate as determined by the Treasurer.

g. Administrative Agency Financial Support. SANDAG shall determine charges to be made against the ARJIS for the services provided by SANDAG, which SANDAG deems are appropriate for reimbursement. Notwithstanding SANDAG's status as a Public Agency Member, SANDAG shall not be required to contribute funds toward ARJIS under Section 5(e), but shall instead provide in-kind contributions in an amount to be approved by the PCPAC and the SANDAG Board.

6. Governance

a. All powers of the ARJIS shall be exercised by the SANDAG Board of Directors. The SANDAG Board of Directors shall delegate responsibilities to the PSPAC consistent with its purpose. The membership of the PSPAC shall be composed of one primary representative selected by the governing body of each Member Agency and Advisory Member Agency to serve until recalled by the governing body of said member. Each Member Agency representative must be a mayor, council-person, or supervisor of the governing body which selected him/her, or other appropriate official selected by the governing body. Each Advisory Member Agency representative

must be selected by the governing body of that agency. Vacancies shall be filled in the same manner as originally selected. Each Member Agency and Advisory Member Agency shall also select, in the same manner as the primary representative, one alternate to serve on the PSPAC when the primary representative is not available. Such alternate shall be subject to the same restrictions and have the same powers, when serving on the PSPAC, as the primary representative.

b. At its discretion, each Member Agency and Advisory Member Agency may select a second alternate, in the same manner as the primary representative, to serve on the PSPAC in the event that neither the primary representative nor the regular alternate is able to attend a meeting of the PSPAC. Such alternate shall be subject to the same restrictions and have the same powers, when serving on the PSPAC, as the primary representative.

c. Upon recommendation of the PSPAC, SANDAG may at any time authorize other agencies to join the ARJIS as Associate or Advisory Members. Each Associate Member shall be allowed to vote in accordance with the provisions of this Agreement. SANDAG may allow for the appointment of additional Advisory Members to sit with the PSPAC, but in no event shall said representatives be allowed a vote. Each Associate and Advisory Member shall designate a primary representative and, at its discretion, one or two alternates.

d. Each PSPAC representative, or designated alternate acting in a representative's absence, may receive reimbursement from ARJIS for out-of-pocket and travel expenses incurred by such representative or alternate on approved ARJIS business. Except where prohibited by the charter, or any ordinance, rule, regulation, or policy of a Member Agency, each Member Agency representative, or designated alternate acting in a Member Agency representative's absence, shall receive \$100.00 from ARJIS for each PSPAC meeting attended, as well as travel expenses incurred.

e. The Chair of the SANDAG Board of Directors shall appoint the Chair and Vice Chair of the PSPAC in accordance with the policies and procedures that apply to all SANDAG policy advisory committees.

7. Membership of the Public Safety Policy Advisory Committee

The members selecting the representatives to serve on the PSPAC as of the effective date of this Agreement shall be:

a. Public Agencies: The Public Agencies shall be represented by four elected officials selected from each of the four subregions defined in the SANDAG Bylaws, one elected official selected by the City of San Diego, and one elected official selected from the County of San Diego. All six of the Public Agency representatives must be SANDAG Board Members or alternates and shall represent SANDAG. Each Public Agency that has selected a representative to serve on the PSPAC must be a member in good standing with all dues fully paid to ARJIS in order to participate on the PSPAC.

b. Associate Members: One person selected by the County Sheriff, one person selected by the State public safety agencies, one person selected from the Regional Homeland Security Committee, and 2 persons selected by the County Chiefs & Sheriffs Association. The number and representation of Associate Members may be modified by a SANDAG Board action amending SANDAG Board Policy.

c. Advisory Members: Two persons selected by the Federal public safety agencies, one person selected from the San Diego County District Attorney's or Probation Department Offices, and one person selected by the courts. The number and representation of Advisory Members may be modified by SANDAG Board action amending SANDAG Board Policy.

8. Voting

(a) The PSPAC shall vote on all items on the basis of one vote per Member Agency.

9. Meetings

The PSPAC shall conduct monthly meetings in conjunction with regularly scheduled SANDAG meetings during the year and at such other times as the PSPAC or SANDAG Board shall direct. Parliamentary procedure at all meetings shall be governed by Roberts Rules of Order, Newly Revised, except as otherwise modified by this Agreement.

10. Ralph M. Brown Act

All meetings of the ARJIS, including without limitation regular, adjourned regular, and special meetings of the PSPAC, and meetings of all standing committees, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code).

11. Quorum

A majority of the voting members of the PSPAC shall constitute a quorum for the transaction of business.

12. Procedures to be Followed

a. Pursuant to Government Code Section 6509, which requires that the powers of ARJIS be limited by the legal restrictions placed upon a named Member Agency, the powers of ARJIS shall be subject to those legal restrictions imposed upon SANDAG by the Constitution of the State of California and the laws governing it.

b. The PSPAC shall adopt SANDAG's administrative regulations establishing the procedures and policies for contracting and approving change orders.

13. Duration of Agreement

This Agreement shall continue in full force and effect until Public Agencies representing more than 50% of the population of the San Diego region withdraw from this Agreement by resolution.

14. Disposition of Assets Upon Termination

Upon termination of this Agreement any money or assets in possession of SANDAG on behalf of the ARJIS after the payment of all liabilities, costs, expenses and charges validly incurred under this Agreement shall be returned to the Public Agencies in proportion to their contributions determined as of the time of termination. In-kind contributions made by SANDAG shall be included in this determination.

15. Effective Date of Agreement

This Agreement became effective for all purposes at 12:01 a.m. July 1, 1990. The most recent amended version of the Agreement shall become effective January 1, 2004. Notwithstanding the foregoing, the consolidation of ARJIS finances with SANDAG will not occur until July 1, 2004. Applicable portions of Section 5 of this Agreement will not go into effect until the consolidation of finances occurs.

16. Later Participating Member Agencies

a. Any San Diego County incorporated city that incorporated after January 1, 2004, that may desire to participate in the activities of ARJIS may do so by executing this Agreement without prior approval or ratification of the Public Agencies and shall be bound by the terms of this Agreement as of the date of execution. The County of San Diego, and the cities in the County which were incorporated on December 1, 1980, who did not execute this Agreement by December 1, 1980 which desire to participate in the activities of ARJIS may do so by executing this agreement without prior approval or ratification of the existing Public Agencies and paying an initial membership charge which may be established and required by SANDAG to offset a portion of the initial start-up costs paid by the Charter Public Agencies, and shall be bound by the terms of terms of this Agreement as of the date of execution. Said membership charge shall not be required of cities that as of December 1, 1980, contracted with the County of San Diego for public safety services, and become a Public Agency after December 1, 1980. Any later participating Public Agency shall receive one (1) vote under the single vote procedure.

b. Any entity that contracts for ARJIS services that wishes to become an Associate or Advisory Member of the PSPAC may submit a written request to the PSPAC identifying how their membership on the PSPAC will further the mission of the PSPAC and/or SANDAG, their history and purpose, and at what level they would like to participate with regard to voting rights and membership fees. If the PSPAC determines the addition of the potential member is advantageous, it may make a recommendation to the SANDAG Board to add the potential member. The SANDAG Board shall make the final determination regarding whether to supplement the PSPAC with additional or different Affiliate or Advisory Members.

17. Agreement Repository

A fully executed copy of this Joint Powers Agreement and any amendments thereto shall be filed with the authorized representative of each Public Agency.

18. Information Privacy & Ownership of Data

a. In order to protect the privacy of individuals as set-forth in Section 1 of Article I of the Constitution of California and in the United States Constitution, the maintenance and dissemination of the information in the ARJIS system shall be undertaken in compliance with Federal and State laws and regulations including the Information Practices Act of 1977 (commencing with Section 1798 of the California Civil Code). An appropriate agency as determined by the PSPAC shall, at the call of the PSPAC, conduct an annual certification of the information to assure compliance.

b. All intellectual property owned by the ARJIS as of the effective date of this Agreement (pursuant to Section 15 herein) including, but not limited to, electronic data, shall remain the property of the ARJIS. If pursuant to agreement, the ARJIS serves as a custodian of data it does not own, that data shall presumptively remain the property of the contributing entity and may not be treated as a public record. The ARJIS may not disclose electronic data or other intellectual property for which it is a custodian to third parties without the approval of the entity that owns the property.

19. Amendments

Proposed amendments may be originated by any member of the PSPAC or by the SANDAG Board of Directors. Amendments to this Agreement shall require the vote of two thirds (2/3) of the Member Agencies who are members of ARJIS at the time the amendment is proposed.

IN WITNESS WHEREOF, each of the following Public Agencies has caused this Joint Powers Agreement to be executed by having affixed thereto the signatures of the agent of said Agency authorized therefore by the legislative body of that Agency.

Adopted 12/80
Amended 7/90
Amended 1/98
Amended 1/04

POLICIES AND PROCEDURES FOR POLICY ADVISORY COMMITTEES

1. Membership

1.1 Executive Committee: Six members to include the City and County of San Diego Board members, and a Board member from each subregion (South County, East County, North County Coastal, North County Inland)¹.

1.1.1 Alternates may be the second City of San Diego Board member or Board alternate, the County of San Diego Board alternate, and alternates selected from each subregion who shall be members of the Board.

1.2 Transportation Committee: Nine members to include a member from the City and County of San Diego governing bodies, a Board member or alternate from each subregion, and a member of NCTD, MTDB and the Airport Authority appointed by those agencies. There may be nine alternates chosen in the same manner.

1.3 Regional Planning Committee: Six members to include a member from the City and County of San Diego governing bodies, and a Board member or alternate from each subregion. There may be six alternates chosen in the same manner.

1.4 Borders Committee: Seven members to include a member from the City and County of San Diego governing bodies, a Board member or alternate from each subregion, and a mayor, councilmember, or supervisor from the County of Imperial. There may be seven alternates chosen in the same manner.

1.5 Public Safety Committee: Six members to include a member from the City and County of San Diego governing bodies and a Board member or alternate from each subregion. The five Associate Member organizations taking part in this committee shall have the following representation: two members from the County Chiefs/Sheriff Association, a member selected by the County Sheriff, a member of the Regional Homeland Security Committee, and a member selected by the State public safety agencies. In addition, there will be four non-voting Advisory Members selected as follows: Two persons selected by the Federal public safety agencies, one person selected from the San Diego County District Attorney's or Probation Department Offices, and one person selected by the courts. There may be alternates chosen in the same manner.

¹ South County includes: Chula Vista, Coronado, Imperial Beach, and National City. East County includes: El Cajon, La Mesa, Lemon Grove and Santee. North County Coastal includes: Carlsbad, Del Mar, Encinitas, Oceanside, and Solana Beach. North County Inland includes: Escondido, Poway, San Marcos and Vista.

2. Limitation on Committee Memberships

No Board member or alternate may serve as the regular member of more than three Policy Advisory Committees ("PACs") at any one time. Committee membership may be expanded by the Board.

3. Ex-Officio Members

A PAC may include Ex-Officio members if appropriate to roles and responsibilities of the committee. The Board Chair and Vice Chair may serve as Ex-Officio members on any of the PACs.

4. Appointments

4.1 Public Agencies

4.1.1 The City and County of San Diego will make their appointments in December or January and when vacancies occur.

4.1.2 The SANDAG Chair will provide notice requesting that Board members from each of the subregions appoint a Board member or alternate as authorized to serve as a regular member on each PAC and one to serve as an alternate to each PAC. Each Board member shall be provided a reasonable opportunity to participate in the selection. Appointments will be made in January or as vacancies occur.

4.2 Associate Members

In addition to the members appointed pursuant to Section 4.2, the Public Safety Committee shall have voting members appointed from the organizations listed below by their respective appointing authorities in January of each year:

- 4.2.1 County Chief's/Sheriff Association – 2 voting members
- 4.2.2 County Sheriff – 1 voting member
- 4.2.3 Regional Homeland Security Committee – 1 voting member
- 4.2.4 State Public Safety Agency Association – 1 voting member

4.3 Advisory Members

In addition to the voting members appointed pursuant to Sections 4.2 and 4.3, the Public Safety Policy Advisory Committee shall have the following non-voting members appointed from the following organizations by their respective appointing authorities in January of each year:

- 4.3.1 County Criminal Justice Association – 1 advisory member
- 4.3.2 Federal Justice Agency Association – 2 advisory members
- 4.3.3 Courts – 1 advisory member

4.4 If any subregion fails to make an appointment to a PAC within three weeks of mailing of the notice to proceed to appoint, the Chair of SANDAG shall make the appointment. If any organization referred to Sections 4.3 or 4.4 fails to make an appointment to the Public Safety Policy Advisory Committee, the current representative shall continue to serve until a replacement appointment is made by his/her organization.

5. Vacancies

Vacancies on PACs shall be filled as they occur in the same manner as appointments.

6. Chair/Vice Chair

The Chair and Vice Chair of the PAC, other than the Executive Committee, shall be appointed by the Board Chair in July or as vacancies occur. The Board Chair, and the Vice Chair when serving as a member of the Executive Committee, shall serve as the Chair and Vice Chair of the Executive Committee. The Vice Chair conducts the meetings in the absence of the Chair. In the event of the absence of both the Chair and Vice Chair for a PAC or other standing committee, the quorum of members present shall elect a chairperson pro tempore to preside for that meeting. The Executive Director or a Chief Deputy Executive Director, with a quorum present, shall call the meeting to order and preside during such election of chairperson pro tempore; he/she shall immediately relinquish the chair upon completion of the election.

7. Attendance

7.1 Regular and alternate members are encouraged to attend all Committee meetings. Roll call shall be taken by the Chair at the beginning of the meeting to determine the voting members present at that time. The voting members shall be seated collectively in order for the public to recognize them as such. Other non-voting alternates in attendance may participate in Committee discussion but shall not be authorized to act on any item.

7.2 If a regular member misses three consecutive Committee meetings without justification, the position on the Committee will be considered vacant and shall be filled in the same manner as appointments.

8. Quorum

A simple majority of members (either regular or alternates) constitute a quorum.

9. Voting

Regular members vote on all committee actions. Alternates vote only when their corresponding regular member from their area is absent. A simple majority of the quorum of regular and eligible alternate members voting constitutes approval. A quorum shall be required for the conduct of any business of a PAC.

10. Compensation

Regular and alternate members of the PACs will be compensated \$100 per meeting attended subject to the limitations on number of meetings per month set forth in the SANDAG Bylaws.

11. Meetings

PAC meetings should normally be held on Fridays or when called by the committee Chair. Parliamentary procedure at all meetings shall be governed by Roberts Rules of Order, Newly Revised.

Working Groups & Subcommittees

The PACs shall have the authority to appoint PAC working groups and may provide for the appointment of alternates to these working groups. Ad hoc working groups may be appointed by the Board or PACs as the need arises to accomplish specific tasks. Upon completion of its assignment, each working group shall disband. Standing subcommittees may be appointed by the Board as may be required to carry out general and continuing functions and may be abolished only upon specific action by the Board. As the Board creates standing subcommittees, it shall specify the method for appointing persons to those subcommittees.

Subject: Public Safety Policy Advisory Committee (PSPAC)

1. Purpose

The purpose of the Public Safety Policy Advisory Committee (PSPAC) is to advise the Board on matters concerning the Automated Regional Justice Information System and the Criminal Justice Division.

2. Governance

2.1. The PSPAC shall be overseen by the Board and shall govern itself in accordance with the Automated Regional Justice Information System Joint Powers Agreement ("ARJIS JPA"), as amended on January 1, 2004, and the policies and procedures applicable to all of SANDAG's policy advisory committees.

2.2. If the ARJIS JPA is in conflict with state or federal statutes or regulations, the statutes or regulations shall supersede the conflicting provision of the JPA. If the ARJIS JPA is in conflict with SANDAG Board policy or procedure, SANDAG Board policy or procedure shall supersede the conflicting provision of the JPA.

3. PSPAC Subcommittees

3.1. There shall be a standing Management Subcommittee composed of standing members who shall be the Chief of Police, Sheriff, or Public Safety CEO of each Member Agency. The term "Member Agency" as used in this Policy shall have the same meaning as in the ARJIS JPA and shall refer to the voting members on the PSPAC. The Management Subcommittee may appoint advisory members to the Subcommittee as needed and shall serve at the pleasure of the Management Subcommittee.

3.2. Each Member Agency representative of the Management Subcommittee shall have one vote.

3.3. Whenever a member is not present at a meeting of the Management Subcommittee, a designated alternate selected by the member may act as a member.

3.4. The Management Subcommittee shall appoint members to standing working groups known as the Users, Technical, Business, and Crime Analysis working groups. The membership of these working groups shall be composed of members of public safety agencies who operate or use the ARJIS. Each member of these working groups shall have one vote.

3.5. The Management Subcommittee meetings shall be at least monthly or whenever called by its Chairperson. The Chairperson of the Management Subcommittee shall notify the members of the Management Subcommittee of any such scheduled meetings at least five days prior

to the scheduled date of the meeting. Upon a finding by the Chairperson that an item has arisen that requires immediate action, he/she may call a meeting on 48 hours notice.

3.6. Other standing subcommittees and standing or ad hoc working groups shall meet whenever called by their respective chairperson.

3.7. Standing subcommittees and working groups shall have as elected officers a chairperson and vice chairperson, who are members or alternates of their respective Member Agency. The Chairperson and Vice Chairperson of each standing subcommittee or working group shall be elected from among its membership.

3.8. The functions of the Management Subcommittee shall be to: (1) review, evaluate, and provide preliminary approval of the ARJIS and Criminal Justice Division work plan and budget for final approval by the SANDAG Board of Directors; (2) evaluate and prioritize the ARJIS and Criminal Justice Division work plan; (3) oversee the implementation of the ARJIS and Criminal Justice Division work plan and budget; (4) establish policies and procedures; (5) approve and oversee the implementation of the recommendations from other subcommittees and working groups; and (6) perform other functions delegated by the PSPAC.

4. IMPLEMENTATION ACTIONS

The attached Scope of Work on page 24 indicates the progress to date on the major components relating to the Consolidation.

A summary of the progress on the key policy tasks shown on page 25 contains significant progress or completion towards:

- 1) Establishment of a Public Safety Policy Advisory Committee
- 2) Review and modifications of legal documents
- 3) Addressing DOJ/FBI mandates for security
- 4) ARJIS membership

The Public Safety Policy Advisory Committee has been established subject to approval of the revised ARJIS JPA by its member agencies. All necessary legal documents have been modified including the ARJIS JPA and SANDAG Board Policies. Building security issues have been addressed in the office space plan, which would house ARJIS on the 5th floor at 401 B. Street, the current location of SANDAG. ARJIS continues to work with SANDAG IT staff to ensure continuation of appropriate measures related to data integrity and security

A summary of key implementation and transition tasks, and status to date shown on page 26 also represents significant progress in support of the consolidation. Major administrative implementation tasks include:

- 1) ARJIS organization and staffing
- 2) ARJIS financial and budget
- 3) ARJIS administrative function moving to SANDAG

ARJIS is working with SANDAG Finance and Administrative staff on Management Control Agreements and ARJIS personnel and financial responsibilities. ARJIS, SANDAG, and the City of San Diego are addressing financial and budget responsibilities that will transfer from the City of San Diego to SANDAG. The ARJIS program and related budget will be incorporated into the SANDAG FY05 Work Program and Budget.

(Tasks may not necessarily be performed in a sequential order)

1. **(Completed)** Form ARJIS Board of Directors, Police Chiefs/Sheriff, Federal public safety agencies, SANDAG staff, and ARJIS staff into an ARJIS/SANDAG consolidation team to prepare consolidation plan, scope of work and schedule. The consolidation team would meet as needed on a monthly basis to complete the consolidation plan and oversee the implementation.

The composition of the consolidation team includes: 1) Members from the Board of Directors: Art Madrid, Christy Guerin, Mark Lewis, Lori Holt Pfeiler, Phil Monroe, Ramona Finnila, and Pam Slater; 2) Members from the ARJIS Chief's: Chief Jim Davis (El Cajon), Chief Robert Hutton (Coronado), Commander Robert Apostolos (SD Sheriff) Chief John Welter (SD Police) and one or two representative from DA, US Attorney, FBI, or other federal agency; 3) Members from SANDAG staff: Tom Larwin, Debra Greenfield, and Cindy Burke, and 4) Pam Scanlon from ARJIS staff.

2. **(Completed)** The Consolidation Team would meet as needed to complete the tasks outlined in the scope of work. Monthly meetings of the Consolidation Team will be held on the 1st Wednesday of each month at 8:00 a.m. at the Western Division offices of SDPD, 5215 Gaines Street. The first meeting is scheduled for Wednesday June 4th (June)
3. **(Completed)** ARJIS staff prepare resource guide for each member of the consolidation team with ARJIS work program and projects (current and planned), budget, current contracts and planned contracts, staff organization chart, description of current committees and working groups, recent Board agendas representing issues brought before the ARJIS Board, and information systems being used. (Review at June 4th meeting of consolidation team)
4. **(Completed)** Discussion by consolidation team on advantages, disadvantages, and issues of the ARJIS/SANDAG consolidation to both agencies. The advantages and disadvantages, and transitions issues should be documented along with a recommendation by the team to the ARJIS Board of Directors. (August 6th)
5. **(Completed)** ARJIS Chiefs provide their vision 2008 for ARJIS. The ARJIS Strategic Plan goals and objectives will also be provided for consideration of consolidation into a common strategy. At September meeting team will confirm common vision, elements, goals and objectives for ARJIS that should be considered as part of the consolidation. (August –October)
6. **(Completed)** Consolidation Team will identify issues and options to address each of the issues. Bring in necessary outside parties to help develop solutions. Where appropriate obtain policy direction from the ARJIS Board of Directors. (June – November)
7. **(Completed)** Identify appropriate committee and working group make-up under the SANDAG Board, including membership and selection of members. (September)
8. **(Completed)** Identify needed changes to ARJIS JPA and Bylaws to address identified implementation and policy issues related to consolidation, and to help achieve vision, goals and objectives (October)
9. **(Completed)** Prepare Draft Consolidation Plan for review and action by the ARJIS Management Committee, ARJIS Board of Directors, and SANDAG Board of Directors. (October - December)
10. **(In-Progress)** Develop ARJIS work program that addresses agreed upon vision, goals and objectives for incorporation into SANDAG Overall Work Program and Budget. (November – May)
11. **(In-Progress)** Finalize Consolidation Plan and proceed with implementation steps. (November – June)

ARJIS/SANDAG CONSOLIDATION KEY POLICY TASKS – 12/19/03

Task	Detail	Responsible	Work Completed / Remaining
1. Legal Documents	<ul style="list-style-type: none"> 1) Amendments to the JPA 2) Amendments to Bylaws 	Larwin/Scanlon/ Wiley /SANDAG/ARJIS Consolidation Committee	Completed
2. Public Safety Policy Committee	Develop Policy Committee: <ul style="list-style-type: none"> 1) Mission 2) Structure/Membership 3) Roles/Responsibilities 4) Voting Rights 5) Meeting Frequency 6) Chair/Vice Chair Selection 7) Interface with Chiefs Management Committee 	Larwin /Scanlon/Wiley/SACC/Burke	Committee Structure Completed. Membership and procedures in-progress
3. ARJIS Membership	Review: <ul style="list-style-type: none"> 1) ARJIS agency membership 2) Determine if changes need to occur for non-SANDAG members 	Larwin /Scanlon/SACC/Chiefs	Completed
4. Security: DOJ/FBI Mandates	Review and ensure compliance: <ul style="list-style-type: none"> 1) Policies relating to DOJ/FBI compliance 2) Management Control Agreements 3) Data Integrity/Security 4) Personnel-Public safety status 	Larwin/ Scanlon /SACC/Chiefs	To be completed with move to 5 th floor in January. Finance and Admin reviewing Management Control Agreements.

ARJIS/SANDAG KEY TRANSITION/IMPLEMENTATION TASKS 12/19/03

Task	Detail	Responsible	Work Needed/Completed - Remaining Tasks – Date
1. ARJIS Organizational Structure ADMIN	<ul style="list-style-type: none"> 1) Modify ARJIS organizational chart 2) Document reporting structure, staff and other meetings, status and periodic updates. 	Scanlon/ Tayman	<ul style="list-style-type: none"> 1) Org chart completed 2) Reporting structure completed – status and update procedures in progress
2. ARJIS Work Program ADMIN	<ul style="list-style-type: none"> 1) Incorporate ARJIS program/projects into SANDAG work program methodology 2) Adopt program metrics, reporting procedures, etc. 	Scanlon/Tayman	<ul style="list-style-type: none"> 1) First draft of FY2005 work program completed 2) Program Metrics and reporting procedures in progress
3. ARJIS Staff ADMIN	<ul style="list-style-type: none"> 1) Determine Staffing Allocation – Public Safety vs. SANDAG (Vacant - ARJIS Technical Program Manager) 2) Review DOJ/FBI mandates for staffing. 3) Consolidate Benefit Package Requirements for transfer of contract employees. 	Scanlon/ Tayman /Campbell	<ul style="list-style-type: none"> 1) Initial meeting held with Campbell. 2) Criminal Justice and ARJIS will conduct background checks on all personnel
4. Contract Negotiation/Signing ADMIN	<ul style="list-style-type: none"> 1) Determine approval and signing authority for adding new member agencies and/or contracts 2) Implement new authority. 	Scanlon/ Tayman /Wiley/Campbell	<ul style="list-style-type: none"> 1) Completed - SANDAG is signatory

ARJIS/SANDAG KEY TRANSITION/IMPLEMENTATION TASKS 12/19/03

Task	Detail	Responsible	Work Needed/Completed - Remaining Tasks – Date
5. ARJIS Ownership of Data/Equipment/Programs ADMIN	1) Ensure ARJIS copyright is maintained 2) Confirm ownership of hardware/software/equipment/programs.	Scanlon/Wiley/Campbell	1) ARJIS Copyright in Progress 2) Request to SDDPC 9/3 for ownership clarification. Ownership clarified in JPA.
6. Physical Location ADMIN	1) Ensure ARJIS meets DOJ/FBI security standards for physical location – locked doors 2) Ensure secure data, etc.	Scanlon/Campbell/FBI –Kingston	1) Completed - addressed in 5th floor move 2) Completed - Separate ARJISNET network. SANDAG employees w/ARJIS access will go through background checks
7. ARJIS Office Supplies ADMIN	Migrate Office Supply Procurement from Corporate Express to SANDAG supplier.	BJHarris/Rose	1) In Progress
8. ARJIS Contracts ADMIN	1) Determine if amendments or policy changes are needed for major contracts. Elisabeth Eisner's continued review of IT contracts? a) SDDPC b) City of San Diego Auditor (Budget and financials) c) Member agencies d) U of Arizona – COPLINK	Scanlon/Campbell/BMontgomery	Initial meetings held with Campbell and Wiley. Legal review of IT contracts in progress – COPLINK Completed 10/1
9. ARJIS Phones ADMIN	Research costs of migrating phone system to SANDAG.	B. Montgomery/Rose	Completed – SANDAG #s will reside on ARJIS existing phones

ARJIS/SANDAG KEY TRANSITION/IMPLEMENTATION TASKS 12/19/03

Task	Detail	Responsible	Work Needed/Completed - Remaining Tasks – Date
10. ARJIS Procurement Policies ADMIN	1) Review SANDAG procurement practices for any need of policy revision 2) Adopt SANDAG procurement policies.	Scanlon/Tayman/Campbell	In Progress - Initial Meeting held with Campbell
11. ARJIS Budget BUDGET	Incorporate ARJIS budget into SANDAG budget.	Scanlon/Wasmund/B. Montgomery	First draft of FY2005 budget completed
12. ARJIS Financials BUDGET	Incorporate ARJIS financials and invoicing for 50 member agencies.	Scanlon/Wasmund/B. Montgomery	Meeting scheduled with City and SANDAG staff
13. ARJIS Reserve Funds BUDGET	Determine best manner for protecting reserve funds and ensuring proper maintenance and disbursement of the fund balance.	Scanlon/ Wiley /Wasmund	Initial meeting held with Wasmund
14. ARJISNET Network IT	Ensure ARJISNET secure network is in compliance with DOJ policies.	Scanlon/FBI/SDDPC/Kroninger	Completed – ARJIS will remain on ARJISNET
15. SANDAG Calendar IT	Enable ARJIS admin access to SANDAG meeting calendar.	Salus/Kroninger	Scanlon on SANDAG remote email/calendar
16. SANDAG Email System IT	Migrate ARJIS GroupWise email system to SANDAG Outlook email system. Convert archives, distribution lists, aliases, etc.	Salus/Kroninger	2 Meetings have been held